

REMARKS

In view of the following remarks, reconsideration of the outstanding office action is respectfully requested.

The Office has rejected claims 1-19 and 21-28 under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent No. 6,466,915 to Suzuki et al. (Suzuki) in view of U.S. Patent No. 6,871,012 to Evans (Evans) and further in view of U.S. Patent No. 7,165,105 to Reiner et al. (Reiner) and further in view of U.S. Patent No. 6,507,727 to Henrick (Henrick).

However, Suzuki, Evans, Reiner, and Henrick, taken alone or in combination do not disclose or suggest “a monitoring system that monitors, at the first device, consumption of the purchased downloaded digital content of a file selected from the digital content storage, and generates usage data based on one or more usage events associated with the purchased downloaded digital content and indicative of the manner in which the purchased downloaded digital content is consumed,” as recited by claim 1, “monitoring, by the first device, consumption of the purchased downloaded digital content of the stored digital content files, which are selected from a digital content storage for consumption; at the first device, generating usage data associated with the purchased downloaded digital content based on one or more usage events and indicative of the manner in which the digital content is consumed,” as recited by claims 8 and 14.

The Office acknowledges Henrick does not disclose or suggest the above-noted limitation of the claims. Rather, the Office asserts Suzuki’s FIG. 25 is a monitoring system that appears on the terminal and monitors the selection of specific files, and asserts data fields, such as color “pink” and price “6.800” are the claimed usage events associated with the purchased downloaded digital content, since these fields store usage data until it is sent to the central processing center (100) in FIG. 1 of Suzuki. Applicants respectfully disagree with the Office’s assertions. With respect to FIG. 25, Suzuki discloses at col. 17, line 60-col. 18, line 6 (emphasis added):

The order reception processing unit 10 takes statistics of the sizes of goods which each customer bought in the past, and the result of the statistics is stored in the customer master file 6. FIG. 24 shows an example of the customer master file 6 including the customers' statistics information. Thereby, the order reception processing unit 10 knows that a customer is already a member of the mall and knows the customer's size as tendency data from the customer's buying history. Therefore, without displaying a size

selection window I on the selection screen image C as shown in FIG. 25 and then causing the customer to click the customer's size, it is possible to automatically determine the customer's size and indicate the size in a selection screen image such as the screen image C as shown in FIG. 7C.

However, such “statistics of the sizes of the goods which each customer bought in the past,” in addition to the illustrated color and price data fields related to the item being purchased in FIG. 25 do not indicate “usage data . . . indicative of the manner in which the purchased downloaded content is consumed” For example, in the specific example disclosed in FIG. 25 of Suzuki, a user is purchasing a “flower pattern one-piece dress” and based upon that particular user’s past purchase history for that one-piece dress “order reception processing unit 10 knows that a customer is already a member of the mall and knows the customer’s size as tendency data from the customer’s buying history”. However, Suzuki in FIG. 25 does not disclose or suggest the manner in which the “flower pattern one-piece dress” was used after purchase. For example, FIG. 25 does not disclose or suggest whether after purchasing the one-piece dress, the customer wore the one-piece dress himself/herself at all or presented it as a gift to someone else, whether or not the customer only wore the one-piece dress to special events, how frequently and for how long the customer wore the purchased one-piece dress, or any other parameter/data indicative of the manner in which the purchased one-piece dress item was used or consumed. Instead, FIG. 25 simply stores “tendency data” indicating the customer’s tendency and data associated with the goods themselves to automatically know a purchased good’s specification the next time the same customer purchases that good (*see, col. 18, lines 9-11*), and not data indicative of the manner in which the purchased item is consumed, as claimed. Therefore, Suzuki does not disclose or suggest the above-noted limitations of claims 1, 8, and 14. Like Henrick and Suzuki, Evans and Reiner do not disclose or suggest the above-noted limitations of claims 1, 8, and 14.

Contrary to the Office’s assertions, Applicants’ claimed invention “monitors, at the first device, consumption of the purchased downloaded digital content of a file . . . and generates usage data based on one or more usage events associated with the purchased downloaded digital content and indicative of the manner in which the purchased downloaded digital content is consumed,” the usage events “describing how the purchased downloaded digital content is consumed.” The claimed usage data is then processed “to provide inference results,” as also claimed. The Office’s attention is respectfully requested toward Table 1 and paragraph [0035] of the original filed specification where Applicants note:

As the digital content viewer 30 plays the digital content, the tracking system 34 stores each usage event in the usage history storage 36, such as when the content is initially played as described above, or when the viewer 30 has completed playing the digital content. Further, additional usage events may be detected and stored in the usage history 36 by the tracking system 34, such as whether the digital content viewer 30 completed playing all of the digital content or whether playing was stopped prematurely or canceled, whether any errors were encountered during playing, or whether the playing was paused. Each time the digital content is played by the digital content viewer 30, the usage data is stored in the usage history storage 36 unbeknownst to user(s) of computer 12(1).

...

An advantage of providing such usage metrics based upon usage of already downloaded digital content, for example, is that content providers can personalize sales of digital content according to an individual user's preferences, without any intervention from the user (*see, for example, paragraphs [0009]-[0011] of the original filed specification*).

Accordingly, in view of the foregoing remarks, the Office is respectfully requested to reconsider and withdraw this rejection of claims 1, 8, and 14. Since claims 2-7 and 21-24 depend from and contain the limitations of claim 1, claims 9-13 and 25-26 depend from and contain the limitations of claim 8, and claims 15-19 and 27-28 depend from and contain the limitations of claim 14, they are distinguishable over the cited references and patentable in the same manner as claims 1, 8, and 14.

In view of all of the foregoing, Applicants submit that this application is now in condition for allowance and such allowance is earnestly solicited.

Respectfully submitted,

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/Gunnar G. Leinberg/
Gunnar G. Leinberg
Registration No. 35,584

NIXON PEABODY LLP
1100 Clinton Square
Rochester, New York 14604
Telephone: (585) 263-1014
Facsimile: (585) 263-1600